

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed May 20, 2004. Claims 1-3, 5-29, 32-46, 48, 49, 52-57, 59, 62-67 and 70-78 were pending in this patent application. The Examiner rejects Claims 1-3, 5-29, 32-46, 48, 49, 52-57, 59, 62-67 and 70-78. Applicant has amended independent Claims 1, 27, 48, and 49 (as well as various dependent claims) and has canceled Claims 6, 32, and 52. Applicant respectfully requests reconsideration and favorable action in this case.

Citation of the Caltech/MIT Document

Applicant appreciates the Examiner pointing out the incorrect date listed in association with "The Caltech/MIT Voting Technology Project" document in the Information Disclosure Statement filed by Applicant. Applicant agrees that this document does appear to have a date of July 2001 (probably July 16, 2001). Applicant apologizes for any inconvenience this may have created.

The Claims As Amended Are Allowable

The Examiner rejected Claims 1, 5-6, 8-11, 14-16, 18-24, 26-27, 32, 34-37, 40-46, 48, 49, 52, 53, 56-57, 59, 62, 65, 71, and 74-78 under U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,081,793 issued to Challener, et al. ("Challener") in view of the publication "The Caltech/MIT Voting Technology Project," hereinafter ("VTP").

Claim 1 of the present application, as amended, recites the following:

An advanced voting system, comprising:
an election key generator operable to generate an election key storing information related to a voter and storing a digital signature used to ensure that the contents stored on the election key have not been modified;
one or more computing devices operable to:
 interface with the election key;
 retrieve the digital signature from the election key to ensure that the contents stored on the election key have not been modified;
 present ballot questions to the voter if an appropriate digital signature is retrieved from the election key; and
 receive interactive voter selections from the voter; and
a ballot generator operable to generate tangible ballots containing the voter selections.

Claims 27, 48, and 49, as amended, recite similar, although not identical, limitations.

Neither *Challener* nor *VTP* disclose a system that includes an election key generator that is operable to store, on an election key, *a digital signature used to ensure that the contents stored on the election key have not been modified*. These references also do not disclose one or more computing devices that are operable to present ballot questions to the voter *if an appropriate digital signature is retrieved from the election key*, as recited in amended Claim 1, and similarly in amended Claims 27, 48, and 49.

In order to establish a *prima facie* case of obviousness, three criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference, or the combination of references, must teach or suggest all of the claim limitations. *See* M.P.E.P. §2142.

Under this standard for determining obviousness, Claims 1, 27, and 48-49 are patentable over the art of record because none of the references alone or in combination disclose, teach, or suggest each and every element of the above-identified claims. These amended claims include limitations from cancelled Claims 6, 32, and 52. Previously, with respect to Claims 6, 32, and 52, the Examiner stated that *Challener* discloses the limitations of Claims 6, 32, and 52 by its disclosure of a PIN that is entered by a voter and that is compared with a PIN number stored on the smart card used by the voter. (Office Action mailed 5/20/2004, page 4). However, a PIN as described in *Challener* is *not* a digital signature. As an example only, and not by way of limitation, the present Application describes the use of digital signatures as follows:

The election key 20 may be encoded with a digital signature 22 of a specific election judge. A digital signature is an electronic signature that can be used to authenticate the identity of the sender of a message or the signer of the document. A digital signature is used to ensure that the original content of the message or document that has been sent is unchanged. Digital signature 22 may be specific to the particular precinct at which the voter is authorized to vote and may be stored in data storage location 16. Election key 20 may be a

bar coded card, a magnetic stripe card, an optical disc (such as a CD-RW or CD-ROM), a magnetic disc (such as a floppy disk), or any other suitable data storage medium operable to be encoded with digital signature 22 and/or any other appropriate information allowing a voter to vote at a voting booth 24. The digital signature 22 encoded on election key 20 may be decoded by the computing device 12 on which the voter makes his voting selections to ensure that the voter does not substitute a different ballot from the one the voter is authorized to use.

(Page 8, line 27 – Page 9, line 8).

As is described in the Application, the use of a digital signature is not similar to the use of a PIN. A PIN, as described in *Challener*, is stored on a smart card and is compared to a PIN that is entered by a voter. A digital signature, as well-known in the art in areas outside the present invention (such as with authentication of electronic mail) and as described in the present invention, is not used in this manner. Applicants have further clarified the operation of the claimed digital signature by reciting that the digital signature is used to ensure that the contents stored on the election key have not been modified. The PIN described in *Challener* is not a digital signature and is certainly not used to ensure that the contents stored on the election key have not been modified.

For at least these reasons, Claims 1, 27, and 48-49, as amended, are allowable over the cited references. Therefore, Applicant respectfully requests reconsideration and allowance of Claims 1, 27, and 48-49 and all claims that depend from those claims.

CONCLUSION

Applicant has made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicant respectfully requests full allowance of all pending claims.

If the Examiner feels that a telephone conference would advance prosecution of this Application in any manner, the Examiner is invited to contact Brian W. Oaks, Attorney for Applicant, at the Examiner's convenience at (214) 953-6986.

Applicant hereby takes an Extension of Time for responding to the Office Action for three (3) months. The three-month extension fee of \$490.00 is attached hereto. Applicant does not believe that any additional fees are due. However, the Commissioner is hereby authorized to charge any additional fees and credit any overpayments to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,

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